

The examiner also rejected the claims under 35 U.S.C. § 102 and 103 in view of Rackson et al., U.S. Patent No. 5,823,935 ("Rackson"). This reference describes a multi-auction service that computes and places an "optimal bid" for a desired item that is offered for sale on multiple auctions. Rackson col. 6, lines 44-7. Although one passage in the Rackson patent states that the system may be used to "input parameters of an item to be acquired or sold (Rackson col. 8, lines 6-11 (emphasis added)), the very next passage clarifies that the system is actually designed to achieve the purchasing objectives of bidders:

For a bidder, the system provides the ability for a bidder to specify bid rules to determine where and how to best achieve the purchasing objectives of the bidder across a plurality of contemporaneous auctions being held at a plurality of remote auction services.

Rackson col. 8, lines 11-16.

In fact, Rackson does not contain any description of offering items for sale at auction, but instead only describes a system for placing "optimal bids" for desired items offered for sale on multiple auctions. More particularly, the Rackson patent discloses a multi-auction service that determines an optimal price for a single type of item to be purchased, which is offered for sale on multiple auction sites. See in particular, Rackson at col. 7, lines 19-34, which explains that the purpose of the multi-auction service is to compute an optimal bid for a plurality of instances of the same type of item offered for sale on multiple auctions, where only one of the items is desired:

A method is additionally disclosed for allowing a bidder to communicate with a multi-auction service to request the multi-auction service to selectively place coordinated bids at one or more remote auction service(s) for a plurality of items where one item is desired. This method comprises the bidder specifying to the multi-auction service the item type to be bid upon, the bidder specifying to the multi-auction service the rules for bidding, the bidder or the multi-auction service determining which items at the remote auction services match the bidder requested item, the multi-auction service periodically checking each of the remote auction sites to determine which site and item to bid on, and the multi-auction service placing bids on the item specified at the remote auction services such that a unique and optimal bid is active at only one of the remote auction services at a moment in time and is placed according to the bidder specified rules.

In other words, the system described in the Rackson patent is used to compute an "optimal bid" for one particular type of item, which is for sale on a number of auctions, so that the buyer can successfully purchase one instance of the desired item at the optimal bid price. Id. The multi-auction service also supports the purchase of multiple instances of the same type of item. Rackson at col. 7, lines 34-7 ("In another embodiment, the bidder may specify rules regarding the bidder's preference for one or more identical, or similar, items sought.") A specific system for implementing this functionality is described in the Figures 12-14 and accompanying text, which the examiner has specifically cited as allegedly disclosing the invention claimed in the present application.

In particular, the input panel shown in Figure 12 of Rackson is used to specify a particular type item to be purchased, the quantity of this item desired, information already known about this item, and the bid strategy that the user would like to implement. This objective is clearly stated in the specification, "a user interface 400 is provided for the bidder to describe parameters of the items to be purchased (see Fig. 12)." Rackson, col. 24, lines 6-8. The flow chart shown on Figure 13 then describes the process by which the information entered into interface 400 (Figure 12) is used to compute and place "optimal bids" for the desired item. See Rackson, col. 24, lines 57-8 ("Once the bidder defines the item(s) to be bid upon at step 600 [i.e., by entering the data specified on Figure 12], the multi-auction service...[implements the bid]...") In order to place the bid, the system computes an "optimum bid" for the specified item (step 612), determines the desired auction site on which to post the optimum bid (step 650), and places the optimum bid on the desired site (654). The auction sites are then monitored (steps 630, 640) and the bid may be changed while the auctions are in process through the iterative loop described in steps 630-654.

Figure 14, in turn, is an interface for reporting the status of the bidding process to the user, who (as described above) is among the bidders for the desired item. To accomplish this objective, this interface 500 displays information pertaining to multiple auctions 526 in which the same type of desired item is offered for sale. The particular desired item is described in the item description 502 and the Rules in Force 510. The user's current bid is pointed out with an asterisk (\*) in column 540. See, Rackson, col. 25, line 57 – col. 26, line 2:

For example, an Internet-based interface 500 may be provided for the bidder 8 such that the bidder (Jon) can view his selected item type 502, and the rules in force 510 and the selected remote auction service items 520 being tracked (see FIG. 14).

Thus, the Rackson patent (and Figures 12-14 in particular) only discloses a multi-auction process for placing an "optimal bid" for a *single type of item* that the user is trying to purchase, and does not address multiple different types of items or items that the user is attempting to sell. In contrast to the system described in Rackson, the present invention is directed to an auction management system that produces a consolidated auction monitoring report that allows a seller to easily track and review the status of auctions for a number of *different types of items* which the user has offered for *sale* at auction. That is, Rackson is concerned with multiple instances of a single type of item, offered on multiple auction sites, on which the user wishes to bid; whereas the present invention is concerned with a number different types of items which the user wishes to offer for sale on one or more auction sites. In addition, the present invention automatically consolidates auction information for different types of items which the user is offering for sale, whereas Rackson concerns information pertaining one particular type of item that the user is attempting to purchase. These differences are very clearly recited in Claim 1, as amended, of the present application (emphasis added):

1. (as amended) A computer-readable medium storing computer-executable instructions for causing a computer-controlled apparatus to perform the steps of:

- creating an auction consolidation account;
- receiving a plurality of auction requests in association with the account, ***each auction request associated with a different type of item to be posted for sale by auction;***
- posting the auction requests to one or more computer implemented auction sites;
- compiling a consolidated auction monitoring report containing information pertaining to each auction request;
- revisiting each auction site to extract updated auction information pertaining to corresponding auction requests; and
- updating the auction monitoring report with the updated auction information.

In view of the language of Claim 1, it is clear that Rackson does not disclose or suggest the claimed invention, which is directed to very different subject matter (i.e. *selling* a number of *different types of items* as recited in Claim 1, versus *bidding* on a *single type of item* offered for sale on multiple auction sites as disclosed in Rackson). As a result, Rackson cannot be construed to show or suggest the specific claim element highlighted above, and thus does not show or suggest each and every element recited in Claim 1 (as amended). Therefore, Rackson does not establish a *prima facie* case of obviousness and cannot be used to support a rejection of Claim 1 under 35 U.S.C. § 102 or 103. MPEP § 2143.03.

The pronounced difference between the present invention and Rackson is further defined in Claim 2, which reads:

2. (as amended) The computer-readable medium of claim 1, wherein the step of posting an auction request to an auction site comprise the steps of:  
 receiving auction advertisement text;  
 receiving an auction advertisement image;  
 receiving a selection of one of a plurality of predefined auction templates;  
 creating an auction submission by combining the advertisement text and the advertisement images in a format defined by the selected auction template; and  
 transmitting the auction submission to the auction site.

Contrary to the statements on page 5 of the Official Action, the system described with reference to Figures 12, 13 and 14 of Rackson most definitely does not implement a system for creating and posting auction submissions for selling items. Nowhere does Rackson include any description of the creation of auction submissions for items to be *sold* at auction. The concepts of "advertisement text," "advertisement image," and "auction templates" are not disclosed or suggested in any manner. Therefore, Rackson cannot be construed to disclose or suggest the element of the invention recited in Claim 2, which is a computerized system for using auction templates, advertisement images, and advertisement text to create and post auction submissions for items to be sold at auction. As explained above, Figures 12, 13 and 14 of Rackson describe a system for computing and placing as "optimal bid" for a particular type of item that a bidder would like to purchase, which is offered for sale on multiple auction sites. Therefore, these

figures do not show or suggest the elements recited in Claims 1 or 2, or any the remaining claims of the present application. Accordingly, the examiner's rejections under 35 U.S.C. § 102 and 103, which are based entirely on Rackson, are not consistent with the teaching of this reference.

### CONCLUSION

It is believed that the preceding remarks are completely responsive to the First Official Action mailed October 4, 2003, and that the claims are in condition for allowance. If the Examiner believes that there are any issues that can be resolved by a telephone conference, or that there are any informalities that can be corrected by an Examiner's amendment, please call Mike Mehrman at (404) 497-7400.

Respectfully submitted,

  
By: Michael J. Mehrman  
Reg. No. 40,086

Mehrman Law Office, P.C.  
5605 Glenridge Drive  
Suite 795  
Atlanta, GA 30342  
404 497 7400  
404 497 7405  
mike@mehrmanlaw.com